IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 18523 of 2005(E)

E.P.344/04 IN OS.406/2000 of MUNSIFF COURT, N. PARAVUR

.....

PETITIONER:

BINDU. C.R., W/O. SAJEEV,
KANNAMPARAMBIL HOUSE, MANAKKODAM MURI,
CHENDAMANGALAM VILLAGE, PARAVOOR TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.LIJU. M.P

RESPONDENTS:

---

1. JOSE, S/O. PAPPU, KURISINKAL,
VADAKKUMPURAM MURI, CHENDAMANGALAM VILLAGE,
PARAVOOR TALUK, ERNAKULAM DISTRICT.

2. SAJEEV, S/O. ACHUTHAN,
KANNAMPRAMBIL, MANAKKODAM MURI,
CHENGAMANGALAM VILLAGE, PARAVOOR TALUK,
ERNAKULAM DISTRICT.

R2 BY ADV. SRI.G.PADMARAJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC NO.18523/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF SALE DEED DATED 30.12.1997.

EXT.P2: TURE COPY OF SALE DEED DATED 25.2.2004.

EXT.P3: TRUE COPY OF THE TAX RECEIPT DATED 7.1.02.

EXT.P4: TRUE COPY OF THE AFFIDAVIT AND ATTACHMENT SCHEDULE DATED 17.9.04 FILED ALONG WITH THE EXECUTION PETITION.

PIUS C. KURIAKOSE,J.

- -

W.P.(C) No.18523 of 2005

- -

Dated: 13th June, 2007

JUDGMENT

In this Writ Petition under Article 227 of the Constitution the petitioner who is the wife of the 2nd respondent who was the judgment-debtor in a decree obtained by the 1st respondent against him seeks an order to set aside the order of attachment passed by the execution court in respect of the movable properties in Ext.P4. The petitioner also claims that the petitioner is the owner of the movable properties in Ext.P4 and the immovable properties in Exts.P1 and P2 and therefore those properties are not liable to be attached in execution of any decree against the 2nd respondent, her husband. It is to be noticed at once that the Code provides a regular remedy for a person whose properties are attached either on the trial side or in execution and who contends that the properties are not liable to be attached. It is for the petitioner to invoke those remedies rather than rush this court under Article 227 of the Constitution. As far as the immovable properties are concerned, it is conceded in the Writ Petition itself that so far no attachment has been made. I do not think that this court will be justified under Article 227 of the Constitution in issuing order of injunction restraining the decree-holder from

proceeding against the properties which according to him belong to the judgment-debtor. Whatever that be, there is no warrant for invoking the supervisory jurisdiction of this court on the facts of this case. The Writ Petition is accordingly dismissed. However since it is seen that all the movables mentioned in Ext.P4 are essentially household movables, there will be a direction that those movable will not be attached or sold for a period of four more months from today. All other remedies available to the petitioner in law are left open.

srd **PIUS C.KURIAKOSE, JUDGE**